

Exhibit 6

Page 1

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

-----x

ANTHONY BAFFO,

Plaintiff, Index No.

10 Civ 1245

-against- (LDW) (ETB)

NEW YORK INSTITUTE OF TECHNOLOGY;

ROBERT RIZZUTO, in his official and
individual capacities; and LEONARD
AUBREY, in his official and individual
capacities,

Defendants.

-----x

March 15, 2011

10:00 a.m.

Deposition of ERIC REDLICH, held at
the offices of Thompson Wigdor & Gilly LLP, 85
Fifth Avenue, New York, New York, pursuant to
Notice, before Lynne D. Metz, a Shorthand Reporter
and Notary Public of the State of New York.

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<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 THOMPSON WIGDOR & GILLY LLP 5 Attorneys for Plaintiff 6 85 Fifth Avenue 7 New York, New York 10003 8 BY: GREGORY N. FILOSA, ESQ., 9 of Counsel 10 11 FULBRIGHT & JAWORSKI L.L.P. 12 Attorneys for Defendants 13 666 Fifth Avenue 14 New York, New York 10103 15 BY: NEIL G. SPARBER, ESQ., 16 of Counsel 17 18 ALSO PRESENT: 19 Anthony Baffo 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 ERIC REDLICH, 3 called as a witness, having been first duly sworn 4 by the Notary Public (Lynne D. Metz), was 5 examined and testified as follows: 6 EXAMINATION BY 7 MR. FILOSA: 8 Q. Mr. Redlich, my name is Gregory 9 Filosa. I am the attorney with Thompson Wigdor & 10 Gilly and we represent the plaintiff Anthony Baffo 11 in a lawsuit that he currently has pending in the 12 Eastern District of New York against his former 13 employer, New York Institute of Technology as well 14 as individual defendants Leonard Aubrey and Robert 15 Rizzuto. 16 We asked you to come down here today 17 just to answer a few questions about information 18 that you may have about Mr. Baffo's employment 19 with NYIT and the termination of his employment 20 there. 21 So I just want to go over a few ground 22 rules first that will govern the deposition so it 23 makes it easier on everyone involved and the court 24 reporter most importantly. I am going to be 25 asking you a series of questions. Your testimony</p>
<p style="text-align: right;">Page 3</p> <p>1 2 IT IS HEREBY STIPULATED, by and between the 3 attorneys for the respective parties hereto, that: 4 All rights provided by the C.P.L.R., and Part 221 5 of the Uniform Rules for the Conduct of 6 Depositions, including the right to object to any 7 question, except as to form, or to move to strike 8 any testimony at this examination is reserved; and 9 in addition, the failure to object to any question 10 or to move to strike any testimony at this 11 examination shall not be a bar or waiver to make 12 such motion at, and is reserved to, the trial of 13 this action. 14 15 This deposition may be sworn to by the witness 16 being examined before a Notary Public other than 17 the Notary Public before whom this examination was 18 begun, but the failure to do so or to return the 19 original of this deposition to counsel, shall not 20 be deemed a waiver of the rights provided by Rule 21 3116 of the C.P.L.R. and shall be controlled 22 thereby. 23 24 The filing of the original of this deposition is 25 waived.</p>	<p style="text-align: right;">Page 5</p> <p>1 2 E. Redlich 3 is under oath today. It is subject to the penalty 4 of perjury. 5 Q. Do you understand what that means? 6 A. Yes. 7 Q. Throughout the course of the day I 8 will be asking you a number of questions. I ask 9 you respond to those questions. Please answer 10 verbally. That means if there is a question that 11 calls for a yes or no or something substantive, 12 please provide that. The court reporter can't 13 record a nod of the head or shake of the head or 14 an a-ha or uh-uh. Just so to make her life easier 15 I will remind you to provide verbal answers to any 16 of my questions. 17 Q. Do you understand that? 18 A. Yes. 19 Q. If at any point during the course of 20 the deposition I ask a question and you need me to 21 repeat it or rephrase it I can do that, just 22 please let me know. If you answer a question I 23 will assume that you both heard the question and 24 you understood the question. 25 Q. Do you understand that? A. Yes.</p>

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<p style="text-align: right;">Page 62</p> <p>1 E. Redlich 2 description and you are agreeing with it every 3 time it is put in front of you on a piece of 4 paper, essentially you are agreeing you are not 5 doing your job. 6 Q. Okay. 7 A. Very different than what I came from. 8 You messed up your boss kind of yelled at you and 9 read you the riot act and hopefully you didn't do 10 it again. 11 Q. Would you characterize this as a 12 progressive discipline policy? 13 A. Yes. 14 Q. With an emphasis on record keeping, 15 putting things in writing? 16 A. Yes. 17 Q. During the period of time that you 18 were employed as a sales manager, you reported to 19 Mr. Baffo; correct? 20 A. Yes. 21 Q. What was your working relationship 22 with Mr. Baffo? 23 A. It was good. 24 Q. Did you get along with him in a 25 professional capacity?</p>	<p style="text-align: right;">Page 64</p> <p>1 E. Redlich 2 A. No. 3 Q. Since you have been -- strike that. 4 At any point, you are not in the sales 5 manager position anymore; correct? 6 A. I am still the sales manager. 7 Q. What is your job title? 8 A. I now have operations added to my 9 duties. 10 Q. Has there been any change in your job 11 title? 12 A. Sales and operations manager. 13 Q. Since you have been employed in the 14 sales and operations manager position, have you, 15 do you interact with Mr. Rizzuto outside the 16 office? 17 A. No. 18 Q. During the period of time you worked 19 with Mr. Baffo, what was your opinion of his work 20 performance? 21 A. Anthony's? 22 Q. Yes. 23 A. It was fine. 24 Q. Did you have any concern for his work 25 performance or anything like that?</p>
<p style="text-align: right;">Page 63</p> <p>1 E. Redlich 2 A. Yes. 3 Q. Did you have any trouble or -- strike 4 that. 5 Did you have any difficulty in 6 interacting with him in a professional capacity? 7 A. No. 8 Q. What about at social functions, did 9 you interact with him socially? 10 A. No. 11 Q. Did you consider him to be a friend? 12 A. No. 13 Q. Did you ever interact outside the 14 workplace? 15 A. No. 16 Q. What about with Mr. Rizzuto, what was 17 your work relationship like with Mr. Rizzuto? 18 A. Professional. 19 Q. Did you have any difficulty or trouble 20 interacting with him? 21 A. No. 22 Q. Did you ever interact during the 23 period of time that you were employed as a sales 24 manager, did you interact with him outside of the 25 office?</p>	<p style="text-align: right;">Page 65</p> <p>1 E. Redlich 2 A. At times. 3 Q. What concerns did you have? 4 A. Coming to NYIT with more than 15 years 5 of catering experience, more than ten in sales I 6 would try and share what I felt to be very 7 beneficial practices to Anthony which I thought 8 and hoped would make his life easier that were not 9 taken into consideration. 10 Q. Do you recall, do you have any 11 examples of advice you had offered that wasn't 12 taken into consideration? 13 A. Not specifically. Everything is in 14 motion now; work plans, duties given to specific 15 employees whether it be a waiter or a bartender, a 16 maitre d', housekeeping, Anthony was a very hands 17 on guy and was putting in a tremendous amount of 18 hours and I just hoped a little bit of advice 19 would give him some quality of life. 20 Q. And during the time period you worked 21 with Mr. Baffo did any other employees ever 22 complain to you about his management style or 23 about interactions with him? 24 A. No. 25 Q. Did anyone during the time period you</p>

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<p style="text-align: right;">Page 66</p> <p>1 E. Redlich 2 worked with Mr. Baffo, did anyone praise his 3 management style or write good comments about 4 working with him? 5 A. Employees or clients? 6 Q. Employees. 7 A. No. 8 Q. What about clients? 9 A. Anthony started running events and he 10 was fantastic at it. He was a great maitre d'. 11 People loved the customer service that he provided 12 to them. 13 Q. Did any clients complain about his 14 customer service or any interactions that they had 15 with him that you recall? 16 A. No. 17 Q. During the time period you worked with 18 Mr. Baffo did you have any conversations with Mr. 19 Rizzuto about Mr. Baffo's work performance? 20 A. Could you repeat the question? 21 Q. During the time period that you worked 22 with Mr. Baffo did you have any conversations with 23 Mr. Rizzuto about his opinion of Mr. Baffo's work 24 performance? 25 A. No.</p>	<p style="text-align: right;">Page 68</p> <p>1 E. Redlich 2 During the time period that you worked 3 with Mr. Baffo, how would you characterize his 4 relationship with Mr. Rizzuto? 5 A. Good and bad like I would say any boss 6 and a peer. Good days and bad days, we all have 7 them. 8 Q. Do you know whether or not Mr. Rizzuto 9 and Mr. Baffo had any interaction outside of the 10 office? 11 A. Yes. 12 Q. What was your understanding or what 13 were you aware of? 14 A. I believe they had met each other at 15 NYIT and Robert possibly knew Anthony while he was 16 working at a restaurant and they were social. 17 Q. Did you believe Mr. Baffo and Mr. 18 Rizzuto to be friends? 19 A. Anthony said they were. 20 Q. Did you ever -- did Mr. Rizzuto ever 21 say that? 22 A. We didn't have conversations like 23 that. 24 Q. Did you ever have any discussions with 25 any other employees of NYIT about Mr. Rizzuto's</p>
<p style="text-align: right;">Page 67</p> <p>1 E. Redlich 2 Q. Did Mr. Rizzuto ever discuss with you 3 concerns that he had about Mr. Baffo's work 4 performance? 5 A. Yes. 6 Q. When was that? 7 A. The summer of 2009. 8 Q. What did he say; what concerns did he 9 express? 10 A. That essentially the role of a general 11 manager was not being met. 12 Q. What specifically did he say? 13 A. That was pretty much it. 14 Q. Did you agree with him? 15 A. I just listened. 16 Q. Did he say anything in response? 17 A. What do you need me to do. 18 Q. Did he ask you to do anything? 19 A. No. 20 Q. Did he say anything other than the 21 role of general manager is not being met? 22 A. That's about it. 23 Q. Did you have any opinion as to the 24 work relationship between Mr. Baffo and Mr. 25 Rizzuto -- strike that.</p>	<p style="text-align: right;">Page 69</p> <p>1 E. Redlich 2 management style or supervision, both good or bad, 3 complaints or praise? 4 A. Sure. 5 Q. What type of -- strike that. 6 Did anyone ever complain to you about 7 Mr. Rizzuto's management style? 8 A. No. 9 Q. Did anyone ever praise his management 10 style? 11 A. No. 12 Q. So what type of discussions then did 13 you have with other NYIT employees about Mr. 14 Rizzuto's management style or interactions with 15 him? 16 A. That it was unique and one that I was 17 not familiar with before. 18 Q. What do you mean by unique? 19 A. Through the memo management forms, 20 trainings were regularly held by outside providers 21 where he wasn't the one hosting them. He would 22 always bring in professionals from the outside to 23 provide us with leadership management styles. He 24 was a firm believer in accountability. 25 Q. Did anyone ever complain to you about</p>

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<p style="text-align: right;">Page 74</p> <p>1 E. Redlich 2 assuming all the responsibilities of the general 3 manager. 4 Q. And when did you -- strike that. 5 How did you learn this? 6 A. Robert told me. 7 Q. Do you recall when he told you? 8 A. The summer of 2009. 9 Q. What did he tell you? 10 A. That he was considering eliminating 11 the position of general manager. 12 Q. Do you recall when in the summer this 13 was? 14 A. End of July beginning of August. 15 Q. And did you have a conversation with 16 Mr. Rizzuto about this? 17 A. It was brief. 18 Q. And was this a separate conversation 19 than the conversation you testified about earlier 20 today where you met with Mr. Rizzuto and he 21 expressed concerns about the role of the GM 22 position not being met? 23 A. After the first time that he had 24 brought it up it was almost a weekly frequency. 25 Q. Okay. And were these meetings that</p>	<p style="text-align: right;">Page 76</p> <p>1 E. Redlich 2 Q. And did he elaborate on why he was 3 eliminating the general manager position? 4 A. He didn't feel Anthony was doing the 5 job. 6 Q. Did he have, express any other 7 concerns? 8 A. Not at that time, no. 9 Q. Was it characterized to you as 10 eliminating the position or reorganization or 11 restructuring, did he ever use those words? 12 A. Reorganization, restructure, 13 eliminating the position all seemed very similar 14 pattern as to what we went through a year prior, 15 or less than a year prior. 16 Q. So you met with him on approximately a 17 weekly basis to discuss the reorganization or the 18 elimination of the general manager position? 19 A. From time to time, yeah. 20 Q. And do you have any documents or 21 e-mails referencing any of these conversations? 22 A. Only what I was shown earlier today. 23 I mean it was quite some time ago, so I don't 24 remember everything. 25 Q. But do you recall exchanging the</p>
<p style="text-align: right;">Page 75</p> <p>1 E. Redlich 2 you had with Mr. Rizzuto? 3 A. Yeah. 4 Q. Where would you meet with him? 5 A. In his office. 6 Q. Was this the same office that he 7 shared with Mr. Baffo? 8 A. Yes. 9 Q. Was Mr. Baffo present for these 10 meetings? 11 A. No. 12 Q. And do you recall when the meetings 13 took place? 14 A. I would say whenever he saw an 15 opportunity. 16 Q. But it was generally on a weekly 17 basis? 18 A. Yes. 19 Q. When did he first discuss his plan to 20 eliminate the general manager position? 21 A. Like I said, again the end of July, 22 beginning of August 2009. 23 Q. And was anyone else present for any of 24 these conversations? 25 A. No.</p>	<p style="text-align: right;">Page 77</p> <p>1 E. Redlich 2 e-mails with Mr. Rizzuto about -- 3 (Witness' phone rings.) 4 A. Excuse me. 5 (Pause.) 6 A. Yes. 7 Q. So you recall exchanging e-mails with 8 Mr. Rizzuto about the reorganization? 9 A. Specific reorganization yes. I know 10 we worked on a flow chart. That was about it. 11 Q. Do you recall when you worked on that 12 flow chart? 13 A. No. 14 Q. Was that around the same time you were 15 having these conversations? 16 A. They started in the summer and 17 continued through the Fall. 18 Q. What I am trying to understand though 19 is when you worked on this flow chart? 20 A. I don't recall. 21 Q. But you recall when your conversations 22 were with Mr. Rizzuto about the eliminating the 23 position; right? 24 A. He prepared me in the summer of 2009, 25 correct.</p>

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1 E. Redlich
 2 Q. What do you mean he prepared you?
 3 A. That he was considering eliminating
 4 the position of general manager.
 5 Q. Did he mention other than what you
 6 talked about today that -- strike that.
 7 Did he say why he was eliminating the
 8 general manager position?
 9 A. Because the role was not being filled.
 10 Q. And did he say what he meant by that?
 11 A. Specifically I don't recall.
 12 Q. Do you understand what he meant that
 13 the role was not being filled?
 14 A. Yes.
 15 Q. What was your understanding of what he
 16 meant?
 17 A. That Anthony wasn't doing his job.
 18 Q. Did Mr. Rizzuto ever express any
 19 concern about finances or the economics of
 20 eliminating the general manager position?
 21 A. No. It didn't have any relation to
 22 budget as far as I was led to believe.
 23 Q. It was purely related to performance?
 24 A. Correct.
 25 Q. And the flow chart that you worked on

1 E. Redlich
 2 with Mr. Rizzuto, was that an organizational
 3 chart?
 4 A. Correct.
 5 Q. And do you recall did he provide you
 6 with a draft and ask for your -- strike that.
 7 What type of interactions did you have
 8 with Mr. Rizzuto about the flow chart?
 9 A. He asked me how office and operation
 10 would work or how I think it should work and I
 11 remember quickly sketching something out on a
 12 piece of paper.
 13 Q. What did you do with that piece of
 14 paper?
 15 A. I handed it to Robert.
 16 Q. Do you know what he did with it?
 17 A. Turned it into a document.
 18 Q. Did he come back to you with a
 19 document that reflected what you had sketched out?
 20 A. I recall seeing one, yes.
 21 Q. Do you recall when that was?
 22 A. Early Fall maybe.
 23 Q. When you say early Fall, what do you
 24 mean?
 25 A. October, end of September. Somewhere

1 E. Redlich
 2 around there.
 3 Q. And when he ultimately showed you an
 4 organizational chart that he put together on his
 5 computer based on the one you sketched out; is
 6 that correct?
 7 A. Similar.
 8 Q. How did he show it to you, did he
 9 e-mail it to you?
 10 A. Yes.
 11 Q. Or provide it in hard copy?
 12 A. It was a form of e-mail.
 13 Q. When you were looking for documents
 14 did you find a copy of the e-mail that Mr. Rizzuto
 15 sent to you of the organizational chart?
 16 A. No. I had had some hard drive issues
 17 where my system had been purged and I was given a
 18 new tower from IT. It happened a number of times.
 19 In my position I get flooded with e-mails and
 20 documents so I didn't unfortunately have the level
 21 of trace history.
 22 Q. What do you mean when you say "trace
 23 history"?
 24 A. My e-mails were fairly fresh. I
 25 didn't have stuff dating back to when I started my

1 E. Redlich
 2 employment.
 3 Q. But you recall Mr. Rizzuto sending you
 4 a org chart via e-mail?
 5 A. Yeah, that's how I got it.
 6 Q. Did you provide him with any comments
 7 on the organizational chart?
 8 A. I don't recall.
 9 RQ MR. FILOSA: At this point we call for
 10 the production -- I don't believe an e-mail
 11 with the flow chart has been produced. We
 12 will followup in writing. I just want to
 13 note for the record that we will call for
 14 the production of that document or
 15 documents.
 16 Q. Are there any other documents that you
 17 are aware of that reflect or reference
 18 conversations that you had with Mr. Rizzuto about
 19 the elimination of Mr. Baffo's position?
 20 A. Just a few vague e-mails. Most of it
 21 was dialogue and office meetings.
 22 Q. Do you recall these vague e-mails, do
 23 you recall when they were sent?
 24 A. I would say their frequency increased
 25 in October.

<p style="text-align: right;">Page 94</p> <p>1 E. Redlich 2 someone was hired would be funded? 3 A. No. 4 Q. And you had mentioned in talking about 5 other positions that were being created or hired, 6 a dining room manager, was it, position? 7 A. Dining room or maitre d'. I don't 8 remember the specific title. 9 Q. What was your understanding of how 10 that position would play in the reorganization? 11 A. That position I believe came about as 12 a reaction to sales and business increasing. So 13 it was a need, if you would call it. It wasn't a 14 replacement of another position. 15 Q. And do you recall, so was someone 16 eventually hired for that position? 17 A. Yes. 18 Q. And your understanding was that that 19 was necessitated by sales and business increasing? 20 A. Yes. 21 Q. And do you know when that position was 22 filled? 23 A. December 2009, January 2010. 24 Q. So it was sometime after Mr. Baffo's 25 position was eliminated?</p>	<p style="text-align: right;">Page 96</p> <p>1 E. Redlich 2 the reporting for dining room staff? Could you 3 briefly summarize what that involves? 4 A. Review the work plans for the managers 5 and the maitre d's, a central pull list, oversee 6 the day-to-day aspects of running events and the 7 business model for the house. 8 Q. When you say work plans, what do you 9 mean? 10 A. When there is a function there is a 11 good amount of planning beforehand that needs to 12 take place. Time lines, work plans for a waiter 13 whether it's set the tables, fold the napkins, 14 polish the silverware to bartenders from taking an 15 inventory, what are the necessary purchases that 16 need to be made, to what polls are essential for 17 the job based on population of male, female; 18 whether it is alcohol, beer, wine and soda. 19 Review the work plans and make sure 20 they are in line with industry standards by the 21 job. Putting in standard business practices that 22 just were not there. 23 Q. When you say "work plans", you are 24 talking about-- strike that. 25 When you say "work plans" they refer</p>
<p style="text-align: right;">Page 95</p> <p>1 E. Redlich 2 A. That's correct. 3 Q. And it was your understanding that 4 that was required because sales and business was 5 increasing? 6 A. Correct. 7 Q. I am trying to get an understanding of 8 what job duties you took on following the 9 elimination of the GM position. 10 Do you recall what specifically you 11 handled following Mr. Baffo's termination that you 12 hadn't handled prior to that? 13 A. The dining room staff would report 14 directly to me. 15 Q. Anything else? 16 A. No. 17 Q. And other than taking over the 18 reporting for the dining room staff, who handled 19 Mr. Baffo's other job duties; was that all handled 20 by Mr. Rizzuto? 21 A. That's correct. 22 Q. Did anyone else take on any of the job 23 duties that Mr. Baffo had performed? 24 A. Not that I am aware of. 25 Q. How has it affected your job taking on</p>	<p style="text-align: right;">Page 97</p> <p>1 E. Redlich 2 to a specific event; is that correct? 3 A. Correct. 4 Q. As opposed to an employee's work plan 5 or anything like that? 6 A. That's an expectation. A daily work 7 plan is when you come to work what you are 8 supposed to do. 9 Q. But the work plans that you are 10 referring to related to events and every event had 11 a work plan and you had to work through that work 12 plan to make sure that everything was in place for 13 that event? 14 A. Correct. 15 Q. And as a result of the reorganization 16 did you, was there any effect on your salary? 17 A. Minor. 18 Q. When you say "minor", what do you 19 mean? 20 A. I received a modest raise. 21 Q. What is a modest raise? 22 A. I believe it was \$5,000, maybe six. 23 Q. And you had been at that point making 24 50 to 55,000? 25 A. Yes.</p>

25 (Pages 94 to 97)

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<p style="text-align: right;">Page 98</p> <p>1 E. Redlich 2 Q. So approximately a ten percent raise? 3 A. Approximately, yeah. 4 Q. What you would characterize as modest? 5 A. Based on the previous salaries that I 6 was receiving in the industry, yes. 7 MR. FILOSA: Let's take a break. 8 (Luncheon recess: 12:52 p.m.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 100</p> <p>1 E. Redlich 2 A. I know who the team members are that 3 are in the service charge distribution. 4 Q. And was there any change in the 5 percentage of team members -- strike that. 6 Was there any change in who received 7 service charge distribution as part of, following 8 Mr. Baffo's elimination? 9 A. No. 10 Q. Now Mr. Baffo's employment was 11 terminated as part of this reorganization; 12 correct? 13 A. Correct. 14 Q. Do you know when his employment ended? 15 A. End of October, beginning of November 16 2009. 17 Q. And did you have any discussions with 18 Mr. Rizzuto about the timing or about the timing 19 of Mr. Baffo's termination? 20 A. No. 21 Q. Did he tell you in advance that his 22 employment was being terminated? 23 A. Not specifically when, no, but I knew 24 that the position was going to be eliminated. 25 Q. And how did you know that, from those</p>
<p style="text-align: right;">Page 99</p> <p>1 E. Redlich 2 AFTERNOON SESSION. 3 (1:49 p.m.) 4 ERIC REDLICH, 5 having been previously sworn, resumed the 6 stand and testified further as follows: 7 EXAMINATION (Cont'd) 8 BY MR. FILOSA: 9 Q. Before the break Mr. Redlich, we had 10 talked about the modest salary increase that you 11 received as part of the reorganization you taking 12 on the sales and operations position. 13 Was there any other change in 14 compensation? Specifically you had referenced a 15 service charge distribution that you received as 16 part of the catering sales manager. 17 A. No. That remained the same. 18 Q. It remained at the one percent level? 19 A. Correct. 20 Q. Do you know if there is any change in 21 the service charge distribution as part of the 22 elimination of Mr. Baffo's employment? 23 A. Not that I am aware of. 24 Q. Are you aware of anyone else that 25 receives service charge distributions?</p>	<p style="text-align: right;">Page 101</p> <p>1 E. Redlich 2 conversations that you already testified to 3 earlier today? 4 A. That's correct. 5 Q. Do you recall prior to Mr. Baffo's 6 termination, do you recall any conversations with 7 Mr. Rizzuto in the week prior? 8 A. Possibly that he had been confirming 9 with human resources. However, it was that it was 10 going to happen. I am not really aware how the 11 school handles it. 12 I worked in many places before you 13 walk in, you are fired, get your stuff, go home. 14 Apparently things are held differently in the 15 academic community. 16 Q. How is it different in the academic 17 community? 18 A. I wasn't in the room so I couldn't 19 tell you. Normally it would be your supervisor 20 that would terminate you based on my past 21 experience. 22 Q. But you didn't have any advance notice 23 of specifically when Mr. Baffo's employment would 24 be terminated? 25 A. No.</p>

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<p style="text-align: right;">Page 102</p> <p>1 E. Redlich 2 Q. And you don't recall any meetings with 3 Mr. Rizzuto with regard to the elimination of the 4 general manager position? 5 A. Not specifically, no. He had 6 mentioned one time he thought it was going to 7 happen, it didn't happen. I was just there to do 8 my job and continue about my business. 9 Q. And do you recall whether that 10 conversation was that he talked about what he 11 thought was going to happen and didn't happen, is 12 that one conversation or two? 13 A. I don't recall how many it was, but I 14 believe it was sometime in October. 15 Q. Do you recall what he said about the 16 elimination of the position? 17 A. No new general manager would be hired. 18 Q. I am wondering about the timing of it, 19 the elimination. 20 A. No. I don't recall. 21 MR. FILOSA: Please mark this as 22 Redlich Exhibit 3. 23 (Redlich Exhibit 3, a one-page 24 document Bates stamped D 04729, marked for 25 identification, as of this date.)</p>	<p style="text-align: right;">Page 104</p> <p>1 E. Redlich 2 Q. Why did you send this e-mail to Mr. 3 Rizzuto? 4 A. We usually have a postmortem meeting 5 on most events to get better, reflect on areas 6 that needed improvement. That's how things got 7 better, talked about them. 8 Q. And that's why you were scheduling for 9 that event; correct? 10 A. Correct. I recall that Anthony had 11 taken a long overdue honeymoon and now that he was 12 back we should have spoken about it. 13 Q. And prior to this had you had any 14 discussions with Mr. Rizzuto about -- strike that. 15 Prior to or around the same time as 16 this e-mail, had you had any discussions with Mr. 17 Rizzuto about the timing of the elimination of the 18 general manager position? 19 A. No. 20 Q. So you didn't know whether or not they 21 had planned to eliminate the general manager 22 position on Friday of this week? 23 A. No. Not that I am aware of. 24 Q. And prior to this e-mail, had you 25 already discussed the elimination of the general</p>
<p style="text-align: right;">Page 103</p> <p>1 E. Redlich 2 Q. You have been shown a document that's 3 been marked as Redlich Exhibit 3. It is a 4 one-page document Bates stamped D 04729. Please 5 take a look at it and let me know when you are 6 ready. 7 A. Okay. Now I recall, yes. 8 Q. This is an e-mail communication from 9 you to Mr. Rizzuto; correct? 10 A. Yes. 11 Q. Dated October 19, 2009; correct? 12 A. Correct. 13 Q. And in it you say: "Are we still 14 thinking about having a meeting about SFH to 15 reflect on the areas we would like to improve not 16 that Anthony is back." 17 A. Typo. Should be now that Anthony is 18 back. 19 Q. That was the first question. 20 The second is what does SFH refer to? 21 A. St. Francis Hospital. 22 Q. And what is this e-mail a reference 23 to? 24 A. An employee appreciation barbecue that 25 I hosted in September.</p>	<p style="text-align: right;">Page 105</p> <p>1 E. Redlich 2 manager position with Mr. Rizzuto? 3 A. Yes. 4 Q. When did you discuss it with him? 5 A. Those conversations started in the 6 summer of 2009. 7 Q. And did you have any conversation with 8 him about the specific timing of the elimination 9 prior to this e-mail, at least that you recall? 10 A. No. 11 Q. Did you have any concern about 12 scheduling this postmortem, as you described it, 13 before the elimination of the general manager 14 position? 15 A. I wasn't aware if the termination was 16 definite. I have been in business a long time. 17 Some people will lose their jobs, some people 18 don't. Anthony was the lead point on the position 19 on the job. I felt he should be there for the 20 postmortem. 21 Q. At this point in time you didn't know 22 whether or not Mr. Rizzuto was going to go forward 23 with eliminating the general manager position? 24 A. Nothing definite. 25 Q. At some point after you sent this</p>

<p style="text-align: right;">Page 110</p> <p>1 E. Redlich 2 the action plan to them? 3 A. An attachment or a hard copy. 4 Q. Do you recall specifically what you 5 did in this instance? 6 A. No. 7 Q. And in the context of setting these 8 goals, did you include within the goals anything 9 related to performing the general manager job 10 duties that you had discussed with Mr. Rizzuto? 11 A. No. 12 Q. Why not? 13 A. Because I wasn't assuming the 14 responsibilities or duties of the general manager. 15 Q. Well, you were taking on duties, 16 operational duties that had been performed by Mr. 17 Baffo prior to the elimination; correct? 18 A. Similar and different. Anthony was 19 running jobs. He was essentially, sorry to say, a 20 glorified maitre d' and my position was a little 21 bit more unique where I was going to manage those 22 positions and supervise which was something I had 23 been customized to do at many properties. Sales 24 and operations were always tied together. 25 Q. So how is what you were doing</p>	<p style="text-align: right;">Page 112</p> <p>1 E. Redlich 2 Q. Did Mr. Rizzuto ever discuss that with 3 you, ever express a similar concern or opinion? 4 A. Specific examples, no. The fact that 5 he was not meeting the requirements of a general 6 manager, yes. Somebody is going to get 7 terminated, I ask why, he is not doing the job. 8 Q. Could there be any other reason? 9 A. Not that I am aware of. 10 Q. Could there be any other reason is the 11 question? I am not asking if you were aware of 12 any other reason. Could there be any other reason 13 that somebody is being terminated other than they 14 are not doing a job? 15 A. I am sure there could be. 16 Q. And during this time period that Mr. 17 Baffo was the general manager he was also your 18 supervisor; correct? 19 A. Yes. 20 Q. And you consulted with him on a daily 21 basis? 22 A. Yes. 23 Q. Did you feel that consistent with his 24 role of general manager supervising you? 25 A. Yes.</p>
<p style="text-align: right;">Page 111</p> <p>1 E. Redlich 2 different with respect to these employees than 3 what Mr. Baffo had done during the time period he 4 was in the general manager position? 5 A. The duties that Anthony was performing 6 were not, in my opinion or anyone else's, general 7 manager duties. 8 Q. You viewed them as glorified maitre d' 9 duties? 10 A. He allowed himself to get absorbed 11 into the operation as opposed to focusing on the 12 day-to-day business operation. 13 Q. How do you distinguish between getting 14 absorbed into the operation as opposed to the 15 day-to-day business operation which is what you 16 just said? 17 A. Well, my experience as a manager, a 18 director leads by advising in a much less hands on 19 capacity. I think Anthony enjoyed running jobs, 20 that's why he did it and allowed himself to slip 21 away from the day-to-day managerial positions. 22 That's what I think his downfall was. 23 Q. And did you ever discuss that with Mr. 24 Rizzuto? 25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 E. Redlich 2 Q. So was he doing his job in that 3 respect in your opinion? 4 A. Yes. 5 Q. And you continued throughout the 6 course of your employment -- strike that. 7 Throughout the period of time that you 8 worked with Mr. Baffo, you continued to report to 9 him and continued to seek out his advice with 10 respect to the day-to-day performance of your job 11 duties; correct? 12 A. Not advice. I had to get approval on 13 anything that I wanted to do. Again, there was a 14 chain of command and how they operate and no one 15 really operates on their own without permission 16 from the supervisor. 17 Q. But you continued throughout the 18 course of your employment during the time period 19 that Mr. Baffo was the GM, you continued to seek 20 his approval on things that required his approval; 21 correct? 22 A. That's correct. 23 MR. FILOSA: Please mark this as 24 Redlich Exhibit 5. 25 (Redlich Exhibit 5, a one-page</p>

<p style="text-align: right;">Page 134</p> <p>1 E. Redlich 2 A. Yes. 3 Q. And the first sentence says: "Okay, 4 FYI the thing I spoke to you about did not happen 5 right away or today at all." 6 Do you have any understanding as to 7 what he was referring to? 8 A. Yes. 9 Q. What was it? 10 A. Anthony's termination. 11 Q. Had he spoken to you about the timing 12 of the termination prior to this e-mail? 13 A. It may have been the day prior. I 14 wasn't given an advance notice. Remember, there 15 was a frequency we had been talking about off and 16 on when he decided to speak to me about it for a 17 few months and then when apparently things came to 18 a head around this time he had been making 19 arrangements to follow through with what he 20 intended to do. 21 Q. And he spoke to you the day prior? 22 A. I am assuming. Again, I wasn't given 23 a lot of notice on specifics. 24 Q. And when he did give you notice, what 25 did Mr. Rizzuto tell you?</p>	<p style="text-align: right;">Page 136</p> <p>1 E. Redlich 2 Q. Now looking at the second paragraph it 3 says: "I would like to schedule time and day/days 4 that you and I can sit and I can get updates from 5 you and answer any questions you may have instead 6 of you having to run after me and pin me down. I 7 think it will help you and be more effective for 8 both of us." 9 Do you see that? 10 A. Yes. 11 Q. So prior to this e-mail, you hadn't 12 had a sit down with Mr. Rizzuto to discuss the 13 full effect of the reorganization or elimination 14 of the position? 15 A. That's correct. He had led me to 16 believe that he was taking on the responsibilities 17 of the general manager and would delegate work out 18 as he sees fit. 19 Q. Prior to that did you ever sit down 20 with Mr. Rizzuto and have a discussion about 21 questions you may have and also provide him with 22 updates as he references in this e-mail? 23 A. After this? 24 Q. Yes. 25 A. Yes.</p>
<p style="text-align: right;">Page 135</p> <p>1 E. Redlich 2 A. Probably something along the lines 3 that Anthony will be terminated today. 4 Q. Or tomorrow or the next day? 5 A. Sometime maybe this week. 6 Q. And did he say anything else? 7 A. No. 8 Q. Did you say anything when he told you 9 that? 10 A. I responded to his e-mail. 11 Q. I am talking about during the 12 conversation when he told you that Mr. Baffo's 13 employment was going to be terminated that week or 14 the next few days. 15 A. No. 16 Q. Were you surprised it was happening at 17 that time? 18 A. No. 19 Q. Now do you recall where you were when 20 Mr. Rizzuto told you about the timing of the 21 termination? 22 A. Probably in my office. 23 Q. Do you know if anyone else was 24 present? 25 A. No.</p>	<p style="text-align: right;">Page 137</p> <p>1 E. Redlich 2 Q. Did it seem odd to you that you didn't 3 have this meeting with him until after the 4 decision was made or after the position was 5 eliminated? 6 A. No. I really don't take things like 7 this as to be shocking information with the amount 8 of experience I have in business. I didn't think 9 many things were really going to change in my 10 world. 11 Q. What do you mean by that? 12 A. I knew I wasn't going to be the 13 general manager. He made that very clear. He was 14 not replacing that position and that he felt 15 better by assuming the responsibilities. 16 Q. But you were going to take on 17 additional duties with respect to operations; 18 right? 19 A. That's correct. 20 Q. And you were given additional pay? 21 A. That was not explored initially. 22 Q. When you talked about the 23 reorganization with Mr. Rizzuto, he didn't 24 reference any increase in your salary? 25 A. No, not right away.</p>

35 (Pages 134 to 137)

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<p style="text-align: right;">Page 154</p> <p>1 E. Redlich 2 general manager's salary was going to make the 3 world happen for us. We used -- if that was the 4 case they wouldn't have replaced other positions 5 which they did and built more positions onto the 6 operation.</p> <p>7 Q. So if they were concerned about 8 increasing profit and cutting the budget they 9 wouldn't have hired these two positions; is that 10 your understanding?</p> <p>11 A. That's my understanding, correct.</p> <p>12 Q. Do you know what other positions were 13 ultimately hired?</p> <p>14 A. A dining room manager. I am not aware 15 of what the exact title is. It maybe a steward or 16 bar manager.</p> <p>17 MR. FILOSA: Please mark this as 18 Redlich Exhibit 10. 19 (Redlich Exhibit 10, a three-page 20 document Bates stamped D 02155 through 2157, 21 marked for identification, as of this date.)</p> <p>22 Q. You have been shown a document that's 23 been marked Redlich Exhibit 10. It is a 24 three-page document Bates stamped D 02155 through 25 2157. Please review it and let me know when you</p>	<p style="text-align: right;">Page 156</p> <p>1 E. Redlich 2 A. I believe the original reason was to 3 assist in a seven day sales coverage at de 4 Seversky which two people were doing at the time 5 and to also accommodate an increased traffic where 6 the phone was ringing more.</p> <p>7 Q. And did you have any discussions with 8 Mr. Baffo or Mr. Rizzuto about the recruitment 9 authorization for this position?</p> <p>10 A. I am assuming so. I didn't have any 11 influence on the salary requirements or the 12 percentage. I have never seen this letter.</p> <p>13 Q. When you say this letter, you are 14 referring to page 3?</p> <p>15 A. Yes.</p> <p>16 Q. And looking at page 1 in the box, the 17 last box, the second sentence: "Additional sales 18 associate will also provide the opportunity for 19 the sales department to solicit new business 20 outside the mansion without taking away valuable 21 meeting time with existing clients."</p> <p>22 Do you know was there any discussion 23 about that at the time of this recruitment 24 authorization?</p> <p>25 A. I don't remember.</p>
<p style="text-align: right;">Page 155</p> <p>1 E. Redlich 2 are ready.</p> <p>3 A. I am ready.</p> <p>4 Q. Have you ever seen this before?</p> <p>5 A. It's possible.</p> <p>6 Q. Do you recognize what it is?</p> <p>7 A. It's an RA for a sales position.</p> <p>8 Q. And an RA is that a recruitment 9 authorization?</p> <p>10 A. That's correct.</p> <p>11 Q. And this one is dated September 1, 12 2009?</p> <p>13 A. Yes.</p> <p>14 Q. And the position listed on the left is 15 catering sales associate?</p> <p>16 A. Yes.</p> <p>17 Q. And on September 1, 2009 you were the 18 catering sales manager?</p> <p>19 A. Yes.</p> <p>20 Q. And was this a new position that was 21 being hired?</p> <p>22 A. Yes.</p> <p>23 Q. And was this position -- strike that.</p> <p>24 Do you know why this position was 25 being hired or posted?</p>	<p style="text-align: right;">Page 157</p> <p>1 E. Redlich 2 Q. Any goal of being able to be, to 3 solicit outside of the office more?</p> <p>4 A. Yeah, that was a goal that they wanted 5 me to attempt.</p> <p>6 Q. Were you able to do that?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. The position was never filled.</p> <p>10 Q. And you took on the operational 11 responsibilities as well?</p> <p>12 A. That's correct.</p> <p>13 Q. That would require you to be in the 14 house more?</p> <p>15 A. That's correct.</p> <p>16 Q. As opposed to soliciting outside of 17 the office?</p> <p>18 A. That's correct.</p> <p>19 Q. And this position was never filled?</p> <p>20 A. Yes.</p> <p>21 MR. FILOSA: Mark this as Redlich 22 Exhibit 11. 23 (Redlich Exhibit 11, a three-page 24 document Bates stamped D 02128 through 2130, 25 marked for identification, as of this date.)</p>

1 E. Redlich
 2 Q. You have been shown a document that's
 3 been marked as Redlich Exhibit 11. It is a
 4 three-page document Bates stamped D 02128 through
 5 2130. Please review it and let me know when you
 6 are ready.
 7 A. I am ready.
 8 Q. This is also a recruitment
 9 authorization?
 10 A. Yes.
 11 Q. And the title for this is Dining Room
 12 Captain?
 13 A. Yes.
 14 Q. Is this the position that you were
 15 referring to earlier? I think you referred to it
 16 as dining room manager.
 17 A. Yes.
 18 Q. So the position that was being
 19 recruited for as part of the reorganization --
 20 strike that.
 21 So this was the position that you were
 22 referring to earlier that would be filled?
 23 A. Yes.
 24 Q. And this is dated September 3, 2009?
 25 A. Yes.

1 E. Redlich
 2 Q. And he was ultimately hired?
 3 A. Yes, he was.
 4 Q. So the dining room captain position
 5 was filled; correct?
 6 A. Yes.
 7 Q. Do you know whether or not the funds
 8 that were saved from the elimination of general
 9 manager position was used to hire any other
 10 positions?
 11 A. Yes. I believe there was a steward
 12 position or bar manager position created. I don't
 13 recall the exact title.
 14 Q. Is it bartender captain?
 15 A. Okay.
 16 Q. Could that be it?
 17 A. Yes.
 18 Q. Have you ever heard of that job title
 19 before?
 20 A. Close enough, yes.
 21 Q. Does NYIT employ someone in the
 22 position of bartender captain?
 23 A. Yes.
 24 Q. Do you know who fills that position?
 25 A. Marshall Spence.

1 E. Redlich
 2 Q. And do you know if this position was
 3 ever filled?
 4 A. Yes, it was.
 5 Q. And this position reports in to you;
 6 right?
 7 A. Yes.
 8 Q. On the operational side?
 9 A. Yes.
 10 Q. And do you know who filled this
 11 position; who was hired for this position?
 12 A. This position was filled by Roger
 13 Echurie.
 14 Q. And Mr. Echurie, did you know him
 15 prior to him coming on as dining room captain?
 16 A. Yes, I did.
 17 Q. Had you worked with him prior?
 18 A. Yes, I did.
 19 Q. Where did you work with him?
 20 A. At the Whitsons Culinary Group.
 21 Q. Did you recommend him for the
 22 position?
 23 A. He applied ironically enough not
 24 knowing I was there. Was gainfully employed at
 25 the time.

1 E. Redlich
 2 Q. Do you know when he was hired?
 3 A. He was a part-time employee for many
 4 years and was offered a full time position based
 5 on his merit and dedication to his job.
 6 Q. Do you know what the salary is for the
 7 bartender captain position?
 8 A. I believe he was hired at \$14 per hour
 9 non-salary which meant that he would be entitled
 10 to overtime if he did more than 40 hours per week.
 11 Q. And that's in the bartender captain
 12 position; is that correct?
 13 A. That's correct.
 14 Q. I am going to show you again what has
 15 been marked as Redlich Exhibit 2. If I could
 16 direct your attention to page 8 under the heading
 17 Response to Interrogatory Number 8.
 18 A. Okay.
 19 Q. Reading it says: "Following the
 20 reorganization of the de Seversky Center in
 21 October 2009, job responsibilities previously
 22 performed by plaintiff, which is a reference to
 23 Mr. Baffo, were assumed by Mr. Rizzuto and Mr.
 24 Redlich."
 25 Do you see that?